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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,691	11/09/2001	Zlatomir Kircanski	0499-033	7568
7590	10/13/2005		EXAMINER	
Bradley N Reuben PC 463 First Street Suite 5A Hoboken, NJ 07030-1859			TRAN, HIEN THI	
			ART UNIT	PAPER NUMBER
			1764	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/037,691	KIRCANSKI, ZLATOMIR
	Examiner Hien Tran	Art Unit 1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 September 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 4-15 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 and 16-18 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-18 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11/9/01 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>11/9/01&amp;7/1/03</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of group I, claims 1-3, 16-18 in the reply filed on 6/14/05 is acknowledged. The traversal is on the ground(s) that a) group I requires molding; and b) the proposed process contravenes the teaching in the instant specification, e.g. to tilt the mixer, and therefore the basis for restricting is not valid. This is not found persuasive because a) such molding in group I is not positively recited, e.g. not in the body of the claims; and b) group I does not require any tilted mixer.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 4-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/14/05.

### ***Drawings***

3. The drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the drawings to comply with CFR 1.84(p)(5), e.g. they should include the reference sign(s) mentioned in the specification and vice versa.

### ***Specification***

4. The abstract of the disclosure is objected to because it is unclear as to where the percentage of silica fibers and magnesium silicate are disclosed in the instant specification. Also in line 2 "Silica" should be changed to --silica--. Correction is required. See MPEP § 608.01(b).

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-3, 16-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 4 it is unclear as to where the phrase of "and/or" is disclosed in the specification. See claim 16 likewise.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. The art area applicable to the instant invention is that of catalytic converter.

One of ordinary skill in this art is considered to have at least a B.S. degree, with additional education in the field and at least 5 years practical experience working in the art; is aware of the state of the art as shown by the references of record, to include those cited by applicants and the examiner (*ESSO Research & Engineering V Kahn & Co*, 183 USPQ 582 1974) and who is presumed to know something about the art apart from what references alone teach (*In re Bode*, 193 USPQ 12, (16) CCPA 1977); and who is motivated by economics to depart from the prior art to reduce costs consistent with the desired product characteristics. *In re Clinton* 188 USPQ 365, 367 (CCPA 1976) and *In re Thompson* 192 USPQ 275, 277 (CCPA 1976).

11. Claims 1-3, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacNeill (5,385,873 or 5,207,989) in view of TenEyck (6,231,818) and Langer (5,250,269).

MacNeill discloses a catalytic converter comprising:

a monolithic catalyst 12;

an outer housing 14; and

a seal 16 for sealing between the monolithic catalyst and the outer housing;

wherein the seal 16 is made from a solid, resilient, high temperature resistant material comprising: between approximately 28-80 dry weight percent of ceramic fibers made of capable of withstanding continuous exposure to temperature in excess of 2,000 °F; the ceramic fibers comprising alumina-silica fibers; between approximately 5-60 dry weight percent of a low

temperature expanding vermiculite; and between 20-50 dry weight percent of high aspect ratio vermiculite.

The apparatus of MacNeill is substantially the same as that of the instant claims, but fails to disclose whether amorphous silica or magnesium silicate may be used as ceramic fibers.

However, Langer and TenEyck disclose the conventionality of using amorphous silica or magnesium silicate as ceramic fibers for the mounting mat. TenEyck further discloses the fibers have diameter from 2-8 microns and length from 12-77 mm.

It would have been obvious to one having ordinary skill in the art to substitute the fibers as taught by TenEyck and Langer for the fibers in the apparatus of MacNeill for the known and expected results of obtaining the same results in mounting mat art and since the use of such is conventional in the art and no cause for patentability here.

Selecting an appropriate percentage for each component of the material is within the purview of one having ordinary skill in the art during routine experimentation and optimization of the system and since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hien Tran whose telephone number is (571) 272-1454. The examiner can normally be reached on Tuesday-Friday from 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Calderola can be reached on (571) 272-1454. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hien Tran

**Hien Tran  
Primary Examiner  
Art Unit 1764**

HT